

ANDOVER CONSERVATION COMMISSION MEETING MINUTES
APRIL 29, 2104

Town of Andover
36 Bartlet Street
3rd Floor Conference Room
7:49pm

Conservation Members in Attendance:

Chairman Donald Cooper, Commissioner Kevin Porter, Commissioner Alix Driscoll, Commissioner Phil Sutherland, and Commissioner Floyd Greenwood. Staff members present were Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

SCHEDULED ITEMS:

Dascomb Road and Frontage Road

Present in Interest: Renata Welch

Staff Recommendation: Approve

Public Hearing on a Request for Determination of Applicability filed by the Mass. DOT-Highway Division under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed resurfacing and roadway maintenance at **Dascomb Road and Frontage Road**.

Mr. Douglas presented this to the Commission. The filing is under the WPA only. This is a limited project for work within the roadway consisting of milling and resurfacing of the roadway.

Renata Welch added that sedimentation controls will be placed around the culvert crossing by the Shawsheen River.

Chairman Cooper asked for a Motion. Commissioner Porter made a Motion to approve; it was seconded by Commissioner Greenwood and unanimously approved.

444 Lowell Street

Present in Interest: Ben Osgood, Jr.

Staff Recommendation: Approve as Pos. 2a, Pos. 3 and Neg.6

Public Meeting on a Request for Determination of Applicability filed by Ryan Rourke under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands

Protection By-law, Article XIV, for proposed installation of a septic system at **444 Lowell Street**.

Agent Cleary presented this to the Commission. The filing is under the WPA only. The Applicant has received a Title 5 variance from the Board of Health for a local upgrade. The system does not meet the 100 foot setback from a wetland tributary to Haggetts Pond. There will be no use of pesticides or fertilizers as added protection. Flag A2 will be reset. Ben Osgood informed the Commission that the old cesspool will be crushed and filled with sand and the pipe disconnected.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to approve as Pos.2a, Pos.3 and Neg.6; it was seconded by Commissioner Sutherland and unanimously approved.

5 Mercury Circle

Present in Interest: Katie Wallace

Staff Recommendation: Approve

Public Hearing on a Request for Determination of Applicability filed by Katie Wallace under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed renovation of existing deck, construction of an arch bridge over Fish Brook and creation of a trail to Fish Brook at **5 Mercury Circle**.

Mr. Douglas presented this to the Commission. The current deck will be replaced with a slightly larger deck and slightly further from the wetland. It will be 83 feet from the wetland, within the inner 100 feet riparian, but outside the 75 foot no-build and built on sona tubes. The proposed arch bridge will span Fish Brook to access a walking path to access the back of their property. Commissioner Greenwood expressed his concern with the use of cement footings within the wetland; the size and scale of the proposed bridge and its impact on the water supply. Andy Menezes informed the Commission that this type of bridge is typically allowed when there is a "clear public benefit"; however this is on private property for private use. Chairman Cooper agreed that the work for the deck is approvable. However, he asked that DEP render an opinion regarding the proposed bridge within the Riverfront and within the inner 100 riparian on both sides. He would also like an opinion from the water department as the bridge would be located within a drainage easement and it spans the water supply.

The applicant agreed to withdraw the portion of the application concerning the bridge and trail work and only proceed with the deck.

Commissioner Greenwood made a Motion to withdraw the application for the trail, bog bridges and arch bridge; it was seconded by Commissioner Sutherland and unanimously approved.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to approve the proposed deck; it was seconded by Commissioner Sutherland and unanimously approved.

Courtney Lane a/k/a (Behind 19 County Road)

Present in Interest: Bill MacLeod, and Dennis Griecci

Staff Recommendation: Close Public Hearing and Issue Amended Order of Conditions.

Public Hearing on a Request for an Amended Order of Conditions by Carolina Properties, LLC under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed widening of the paved width of the way to 20 feet at **Courtney Lane**.

Agent Cleary presented this to the Commission. The filing is under both the WPA and By-Law. The widening of the roadway is required by the Fire Department and Planning Board to allow for turnaround for fire apparatus. This is a matter of public safety. There will be no significant impacts to the Riverfront.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to close the public hearing and issue the Amended Order of Conditions; it was seconded by Commissioner Driscoll and unanimously approved.

131 Chandler Road

Present in Interest: Bill MacLeod, Dennis Griecci and Mellissia Walles

Staff Recommendation: Close the public hearing and issue the Order of Conditions.

Continued Public Hearing on a Notice of Intent filed by Mellissia and Daniel Walles under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed construction of an addition, portico, deck and garage at **131 Chandler Road**.

Mr. Douglas presented this to the Commission. The majority of the work is outside the 50 foot no-build.

Mr. MacLeod presented the project to the Commission. The Applicants would like to add a 2 stall garage in the back of the home and a family room addition in the front. 140 square feet of pavement will be removed behind the proposed garage, and 200 square feet of pavement will be added for the entrance to the new garage. There will be no construction on the easterly side of the driveway. A small corner of the addition is within the 50 foot no-build and the Applicant would like a waiver for not meeting the setback. Staff agreed to add this to the Order of Conditions. Mr. MacLeod requested that there be no appointed site monitor. The Commission denied his request.

Commissioner Sutherland inquired as to the flow of the runoff for this property. The runoff pitches towards the end of the driveway into the lawn area, not towards the wetland.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to accept the waiver, close the public hearing and issue the Order of Conditions; it was seconded by Commissioner Driscoll and unanimously approved.

12 Tiffany Lane

Present in Interest: Bernie Paquin

Staff Recommendation: Continue to May 20, 2014.

Continued Public Hearing on a Notice of Intent filed by James and Lynette Cavanaugh under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed construction of an addition at **12 Tiffany Lane**.

Agent Cleary presented this to the Commission. This was continued from April 1, 2014 for a site visit and revised plans. The filing is under the WPA only and is now complete. The house was constructed prior to the WPA, Riverfront Regulations and the WPOD. The proposed work is within a previous disturbed Riverfront and WPOD area. Waivers for construction within the no-build zone, work within the non-disturb area and non-submittal of data sheets for wetland line. The Applicant is exceeding DEP's 1:1 mitigation requirement by providing close to a 3:1 mitigation of riverfront enhancement. Use of pesticides and fertilizers will be prohibited in the yard area (existing lawn).

Chairman Cooper agreed that mitigation is needed and it makes the existing conditions much improved to compensate for the proposed addition.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to accept the waivers, no pesticides, herbicides or fertilizers, close public hearing and issue at May 20, 2014 meeting; Commissioner Porter seconded the Motion and it was unanimously approved. Bernie Paquin signed a waiver for issuance within 21 days from closing the Public Hearing.

15 Stevens Street-Atria Marland Place-Bld.#3

Present in Interest: Paul Finger, Ann Marton and Janet Bernardo

Staff Recommendation: Accept Waivers, Close Public Hearing and Issue Amended Order of Conditions.

Continued Public Hearing on a Request for an Amended Order of Conditions by Atria Senior Living, Inc. Trust under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed construction of 13 new units, new stairwell, reconfigure basement windows and realign the vehicular circulation at the front entrance at **15 Stevens Street-Atria Marland Place, Building #3**.

Agent Cleary presented this to the Commission. This was continued from November 19, 2013 for peer review by Janet Bernardo and Ann Marton. Waivers have been requested for work within the 25 foot no-disturb and the 50 foot no-build. 11,205 square feet of Riverfront will be altered, but improved with landscaping and pervious surface and 838 additional cubic yards of flood storage. The proposed amendment has decreased the amount of alteration in both resource areas by close to 10,000 square feet. Pedestrian access is still a component of the project. Continuing conditions, such as dam reports, ability to remove nuisance vegetation on bank walls, maintenance of drainage structures and removal of debris from the dam are still in full force and effect.

Janet Bernardo presented her peer review to the Commission which included both Phase 1 and Phase 2. Phase 1 will be completed and then work will cease until the dam removal is completed and then Phase 2 will begin. The windows in the basement of Mill Building No. 3 will be opened up for compensatory flood storage. Screens will be used to keep debris out of the basement. A small corner of the basement will have a sump pump installed because this area will not allow the water to flow back out with gravity when the water recedes. The terraces have been reconfigured and will have no impact on the flood storage.

Chairman Cooper questioned if the windows with louvers are considered regulatorily to be unrestricted hydrologically connected. Janet agreed that because it is a stationary opening with a screen where water can flow through with the louvers angled to prevent branches from being tangled, it can be considered unrestricted hydrologically connected.

Commissioner Greenwood was concerned this would slow the flow of the water. The screen will slow the flow so insignificantly, the volume will not change.

Chairman Cooper asked if this opening is recognized as unimpeded flow. This system has been used as an alternative option.

Ann Marton presented her peer review to the Commission. The louvers are stationary, so they cannot close and restrict the water flow. Upon checking with DEP, they consider this flood storage system "retrofitting an existing building/condition" for flood storage. Ann recommended adding a condition to the Order of Conditions to mandate inspection of the louvers and screens following a flood to remove debris and make any necessary repairs. Ann also stated that the banking of impervious area or compensatory flood storage is not appropriate for this project since it is located where the river is known to flood.

A few changes were recommended by both Janet and Ann to the Order of Conditions which will be made by staff prior to issuing the Order of Conditions to the Applicant.

The permit will be valid for 5 years instead of 3 to enable adequate time to coordinate with the Town of Andover for use of the site for the staging area for the removal of the Stevens Street dam.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to accept the waivers, close the public hearing and issue the Order of Conditions with additions discussed; it was seconded by Commissioner Greenwood and unanimously approved.

ACTION ITEMS:

13-17 Boutwell Road

Staff Recommendation: Approve

Request for Extension to Order of Conditions.

Pre-construction Meeting to occur prior to any work with a deposit of \$800 to being the escrow account balance to \$1,000; New construction sequencing plan must be submitted with the creation of the wetland replication area to be done prior to the commencement of work; and Full funding for Ann Marton as the Commission's site monitor must be in place prior to the commencement of work.

Commissioner Sutherland made a Motion to approve the Extension with the conditions listed; it was seconded by Commissioner Greenwood and unanimously approved.

256 River Road

Staff Recommendation: Approve

Request for Insignificant Change to replace existing deck.

Commissioner Greenwood made a Motion to Approve; it was seconded by Commissioner Driscoll and unanimously approved.

CONSENT AGENDA:

Minutes

Approval of minutes from April 15, 2104.

105 Cross Street

Issuance of a Satisfactory Completion of Work Certificate

Commissioner Greenwood made a Motion to Approve the Consent Agenda; it was seconded by Commissioner Sutherland and unanimously approved.

LATE/DISCUSSION ITEMS THAT MAY REQUIRE A VOTE:

Town Warrant Article 56

Present in Interest: Al French

Continued discussion regarding Town Warrant Article 56. Buzz is encouraging the Commission to withdraw the Article, but make a presentation, which is against Roberts Rules of Order.

Commissioner Greenwood stated that the approval of this Article could make a difference in the purchase of the PA Boathouse property. If we press forward, then the outcome is the opinion of the Town. Commissioner Driscoll agreed to let the Town decide as the economic conditions are not going to improve any time soon and open space is the largest asset the Town has

Commissioner Porter believes asking for money for a specific property purchase would be better than asking for funds for unspecified purchases.

Mr. French asked the Commission to make a decision at the meeting. If the Commission is moving forward with the Article, he will need time to notify voters to support the Article at Town Meeting.

Commissioner Greenwood made a Motion to bring Article 56 forward to Town Meeting and not withdraw; it was seconded by Commissioner Driscoll and approved with Chairman Cooper abstaining.

I-495 NB&SB over N. Main St., Union St. & B&M/MBTA Railroad

Information regarding MassDOT project to replace 7 bridges carrying I-495 in Andover and to widen I-495 by one lane on each side between the Corbett Street bridge in Andover and Route 114 Interchange in Lawrence.

83 Porter Road

Present in Interest: Scott Follansbee; Tara Wilson and Jason Ardizzone

Ratify Enforcement Order issued. Failed sedimentation control inspection and Mr. Douglas issued a Cease and Desist Enforcement Order. Cease and Desist Order lifted upon correction of sedimentation control and other items to be completed.

Commissioner Driscoll made a Motion to ratify the Enforcement Order; it was seconded by Commissioner Sutherland and unanimously approved.

Commissioner Driscoll asked the Commission to support two Amendments to the House budget. DEP needs to have their budget fully funded; and Climate Change Preparedness for Towns.

Commissioner Porter made a Motion to support both Amendments and Commissioner Driscoll to write to State Representatives; it was seconded by Commissioner Greenwood and unanimously approved.

The next meeting will be held May 20, 2014 at 7:45pm.

The meeting was adjourned at 9:59 pm by Motion of Commissioner Greenwood and seconded by Commissioner Sutherland and unanimously approved.

Respectfully submitted by,

**Lynn Viselli,
Recording Secretary**